

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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TOBACCO LITIGATION TEAM

UNITED STATES OF AMERICA,

Plaintiff,

v.

PHILIP MORRIS, INCORPORATED,  
et al.,

Defendants.

Civil Action No. 99-CV-2496(GK)

**PHILIP MORRIS INCORPORATED'S RESPONSES TO  
THE UNITED STATES' FIRST SET OF INTERROGATORIES TO DEFENDANTS**

Defendant Philip Morris Incorporated ("Philip Morris") responds to the United States' First Set of Interrogatories to Defendants ("Interrogatories") as follows:

**PRELIMINARY STATEMENT**

Since 1996 Philip Morris has been producing documents responsive to discovery requests in United States smoking and health litigation into a document depository in Minneapolis, Minnesota, known as the "Minnesota Depository," which was established by Court Order dated June 15, 1995 in the State of Minnesota (Humphrey) v. Philip Morris Incorporated, et al., Case No. C1-94-8565 (Ramsey County, Minnesota) ("the Minnesota Litigation"). In response to document requests in that action, the scope and meaning of which were the subject of extensive negotiations with the Minnesota Attorney General and clarifications from the Minnesota Court, including a date "cut-off" limiting most responsive documents to those created on or before August 19, 1994, Philip Morris spent more than two years collecting, reviewing and producing into the Minnesota Depository over 6.8 million pages of documents at a cost to Philip Morris,

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during the first year alone, of more than \$1 million per week. On average, during the first year of production, approximately 300 attorneys, paralegals and support staff worked full-time on the production into the Minnesota Depository.

Pursuant to an Order of the Minnesota Court dated March 28, 1998, documents produced into the Minnesota Depository were made publicly available.<sup>1</sup>

Pursuant to the March 28, 1998 Order, the Minnesota Depository is open to the public at large, subject to certain priority access rules established therein. Subsequent to that Order, the Minnesota Litigation was settled, and on May 8, 1998, a consent judgment was entered in connection therewith by the Minnesota Court. Pursuant to that consent judgment, the public also has access in the Minnesota Depository to those documents produced by defendants in the Minnesota Litigation which were previously designated as "Confidential - Category I" under the Minnesota Protective Order. Additionally, pursuant to the May 8, 1998 consent judgment entered in the Minnesota Litigation, Philip Morris has produced and is continuing to produce into the Minnesota Depository all non-confidential, non-privileged documents produced by Philip Morris in other United States smoking and health litigation, but not previously produced in Minnesota, within 30 days of their production in such other litigation.

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<sup>1</sup> The public availability provisions of the March 28, 1998 Order excluded trade secret documents designated as "Confidential - Category I" under the Minnesota Protective Order and documents containing confidential personal and third-party information. During the Minnesota Litigation, Philip Morris also produced some documents and information to plaintiffs' counsel outside the Minnesota Depository. Most of those documents and information have been or are scheduled to be produced into the Minnesota Depository. However, of the documents produced directly to plaintiffs' counsel outside the Depository, any documents, which are designated "Confidential - Category II" under the Minnesota Protective Order and contain trade secret formula, ingredient or specification information, will not be produced into the Depository.

At the Depository, Plaintiffs can access the "4B indices"<sup>2</sup> covering documents produced into the Minnesota Depository. Through the use of the 4B indices, Plaintiffs have a searchable index to all of the documents produced into the Minnesota Depository to date.

Furthermore, as of February 27, 1998 Philip Morris voluntarily began placing on the Internet the documents available to the public in the Minnesota Depository. The document websites of Philip Morris, and other tobacco companies, are available through [www.tobaccoarchives.com](http://www.tobaccoarchives.com). Pursuant to paragraph IV of the Master Settlement Agreement ("MSA") in the Attorneys General cases, entered into on November 23, 1998, Philip Morris undertook to implement certain enhancements to its original document website. These enhancements became available on Philip Morris' document website on January 7, 1999. They include the availability of additional documents, improved navigational tools, and an expanded index to documents, with up to 32 fields of information, as provided for by Exhibit I of the MSA. The expanded index is computer searchable, and the 32 fields include, but are not limited to, information contained in the 4B indices that are available in the Depository. Presently, the vast majority of the documents produced into the Minnesota Depository are available on Philip Morris' document website, including documents selected for copying by Minnesota plaintiffs' counsel. Those "selected" documents are specifically identified on the index available on the document website. Certain oversized documents, videotapes, and other non-standard media are fully indexed on the website, but are not available in image form.

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<sup>2</sup> The 4B indices identify, for each document, the box number, Bates (document) number, title, author(s), recipient(s), person(s) copied, document type, date shipped to the Minnesota Depository, and, in many cases, at least one Document Request to which the document is responsive. In some instances where a document is responsive to multiple requests, not all requests are identified.

In addition, pursuant to paragraph IV of the MSA, documents produced by Philip Morris in certain Attorneys General cases as of November 23, 1998, when the settlement was entered into, have been placed on Philip Morris' document website.<sup>3</sup> Further, documents produced by Philip Morris on or after October 24, 1998, in any federal or state court civil smoking and health actions have been or will be placed on its document website within 45 days after the production of such documents.<sup>4</sup> Also, certain other documents produced by Philip Morris and listed by plaintiffs as trial exhibits in certain cases specified in the MSA have been placed on Philip Morris' document website.<sup>5</sup>

Philip Morris makes no claim of confidentiality for information, documents or materials voluntarily made available by Philip Morris to the public in the Minnesota Depository or to documents placed on its document website by Philip Morris. Philip Morris does not waive any claims of privilege or work product for documents for which claims of privilege or work product continue to be asserted by Philip Morris.

Given that the Minnesota Depository and the websites are accessible to Plaintiffs, documents containing certain information requested in these Interrogatories are as accessible to Plaintiffs as they are to Philip Morris.

#### **GENERAL OBJECTIONS**

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<sup>3</sup> Under the MSA, Philip Morris is not required to put on its document website or otherwise disclose documents that it continues to claim (1) to be privileged under the attorney-client, work-product and joint defense privileges, (2) contain a trade secret or confidential or proprietary business information, (3) contain certain personal and third-party information, and (4) to be subject to any continuing protective order, sealing order or other order or ruling that prevents or limits a litigant from disclosing such documents.

<sup>4</sup> See footnote 3.

<sup>5</sup> See footnote 3.

A. Philip Morris objects to the "Definitions" and "Instructions" to these Interrogatories to the extent they attempt to impose obligations on Philip Morris other than those imposed or authorized by the Federal Rules of Civil Procedure and/or any applicable order of this Court.

B. Philip Morris objects to the term "Addiction" as defined in Paragraph 1 of the "Definitions" on the grounds that it is vague, ambiguous and overly broad in that it purports to include five different terms, each of which has a distinct and separate meaning.

C. Philip Morris objects to the term "Defendants" as defined in Paragraph 4 of the "Definitions" on the grounds that it is vague, ambiguous, overly broad and unduly burdensome to the extent the term purports to include: (i) persons or entities that may not be authorized to act on behalf of Philip Morris; or (ii) persons or entities that are not parties to this action. Plaintiff's definition would also appear to include entities not involved in the manufacture and sale of cigarettes. Information from such entities and persons is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence. Responses to these Interrogatories are by and for defendant Philip Morris Incorporated only. Beginning in 1967, Philip Morris Domestic (later renamed "Philip Morris USA") was a separate operating division (but not a separate corporation) of Philip Morris Incorporated engaged in the manufacture, marketing and sale of cigarettes within the United States. In 1985, Philip Morris Companies Inc. ("Philip Morris Companies") was formed and became the parent of Philip Morris Incorporated. From 1967 through December 31, 1987, the international business was conducted through Philip Morris International, another separate operating division (but not a separate corporation) of Philip Morris Incorporated engaged in the manufacture, marketing and sale of cigarettes outside the duty-paid market of the continental United States. On November 16, 1987, Philip Morris International Inc. was incorporated.

Effective January 1, 1988, Philip Morris Incorporated spun off its international business to Philip Morris International Inc. and certain subsidiaries, which thereafter engaged in the manufacture, marketing and sale of cigarettes outside the duty-paid market of the continental United States. Unless otherwise specifically provided, these responses are limited solely to the domestic manufacture, marketing, and sale of cigarettes in the United States by Philip Morris Incorporated for domestic consumption. Philip Morris Incorporated has produced to the Minnesota Depository documents from Philip Morris Companies, Philip Morris Management Corp., Philip Morris International Inc., and certain of its affiliates and subsidiaries, including Institut fuer Biologische Forschung GmbH (INBIFO), Contract Research Center (CRC) and Fabriques de Tabac Reunies S.A. (FTR). Philip Morris further objects to these Interrogatories to the extent they ask Philip Morris to answer for "Defendants". Responses to these Interrogatories are by and for defendant Philip Morris Incorporated only.

D. Philip Morris objects to the term "Document" as defined in Paragraph 5 of the "Definitions" on the grounds that it is overly broad and unduly burdensome to the extent it exceeds the requirements of the Federal Rules of Civil Procedure.

E. Philip Morris objects to the terms "Identify" and "Identity" as defined in Paragraphs 7, 8, 9, 10 and 11 of the "Definitions" on the grounds that they are overly broad, unduly burdensome, harassing and oppressive.

F. Philip Morris objects to the term "Less-Hazardous Cigarette" as defined in Paragraph 12 of the "Definitions" on the grounds that there is neither an accepted definition of "Less-Hazardous Cigarette" nor any agreement as to whether a "Less-Hazardous Cigarette" is technologically possible or commercially feasible. Philip Morris further objects to this definition to the extent it refers to cigarettes designed or intended to reduce the risk of fire on the grounds

that it is overly broad, unduly burdensome and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence.

G. Philip Morris objects to the term "Marketing" as defined in Paragraph 13 of the "Definitions" on the grounds that it is nonsensical in that it seeks information regarding "all activities relating to cigarettes that are intended to or are likely to be seen or heard by members of the public, including, but not limited to, advertising . . ." but ". . . should not be construed to include . . . (e) advertising." Philip Morris further objects to this definition on the grounds that it is overly broad, unduly burdensome and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it refers to "activities" that do not concern the advertising, marketing or promotion of cigarettes manufactured by Philip Morris for sale in the United States.

H. Philip Morris objects to the term "Money," "Payment," "Compensation," "Contribution," "Expenditure," "Monies," and "Funds" as defined in Paragraph 14 of the "Definitions" on the grounds that they are overly broad and unduly burdensome.

I. Philip Morris objects to the terms "You," "Your," "Your Company" and "Your Organization" as defined in Paragraph 17 of the "Definitions" on the grounds that they are overly broad and unduly burdensome. Responses to these Interrogatories are by and for defendant Philip Morris Incorporated only.

J. Philip Morris objects to the term "Person" as defined in Paragraph 16 of the "Definitions" on the grounds that it is overly broad and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the

discovery of admissible evidence to the extent it seeks information concerning any "foreign" person or entity.

K. Philip Morris objects to Plaintiff's Instruction Number 4 on the grounds that it is overly broad and unduly burdensome.

L. Philip Morris objects to these Interrogatories to the extent they seek disclosure of information protected from discovery by the attorney-client privilege, the work product doctrine, the joint defense privilege, the common interest privilege, or any other applicable privilege and exemption. Inadvertent disclosure of any privileged or otherwise protected documents or information shall not be a waiver of any privilege, work product protection, exemption, or immunity.

M. Philip Morris objects to these Interrogatories to the extent they seek the disclosure of information protected from discovery by privileges arising from the First Amendment to the United States Constitution and/or the Noerr-Pennington and/or Separation of Powers Doctrine.

N. Philip Morris objects to these Interrogatories to the extent they require the disclosure of proprietary, trade secret, or any commercially protected information unless such disclosure is made in accordance with the provisions of Order #7, Protective Order Governing Confidential Information, entered by the Court on March 3, 2000, and of Order #36, Addendum to Protective Order for Highly Sensitive Information (November 15, 2000). No claim of confidentiality shall apply to information, documents or materials voluntarily made available by Philip Morris to the public in the Minnesota Depository or to documents placed on the Internet by Philip Morris at its document website entitled [www.pmdocs.com](http://www.pmdocs.com). Furthermore, Philip Morris objects to producing, under any circumstances, extraordinarily sensitive and guarded trade secret and proprietary



information (such as specifications and formulas for commercial cigarettes and information regarding new product development), for which no relevance has been shown.

O. Philip Morris objects to these Interrogatories, including "Instruction No. 1," to the extent they purport to require searches of files and the production of information in the possession, custody, or control of third parties. Philip Morris also objects to these Interrogatories to the extent they seek information from parents, subsidiaries, affiliates, third parties or agents, other than current employees, or those parent, sister, or subsidiary companies not in the business of manufacturing, marketing, promoting or selling cigarettes within the United States. Such interrogatories are overly broad, unduly burdensome, and seek information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence. Responses to these Interrogatories are by and for defendant Philip Morris Incorporated only.

P. Philip Morris objects to these Interrogatories as overly broad and unduly burdensome to the extent they require Philip Morris to provide information that is not within its possession, that is in the possession of Plaintiff, Plaintiff's counsel, another defendant or any person or entity not a party to this action.

Q. Philip Morris objects to these Interrogatories to the extent they seek the production of information that is publicly available on the ground that the burden of obtaining that information is substantially the same for Plaintiff as it is for Philip Morris.

R. Philip Morris objects to these Interrogatories as overly broad and unduly burdensome to the extent they are unlimited as to time.

S. Philip Morris objects to these Interrogatories as overly broad and unduly burdensome to the extent they seek information concerning the manufacture, advertising, marketing or sale of cigarettes not manufactured, advertised, marketed or sold in the United States.

T. Philip Morris objects to these Interrogatories to the extent they seek information regarding claims that are preempted by the Federal Cigarette Labeling and Advertising Act, codified as amended at 15 U.S.C. §§ 1331-41. See Cipollone v. Liggett Group, Inc., 505 U.S. 504, 112 S. Ct. 2608 (1992).

U. Philip Morris objects to these Interrogatories to the extent they seek the disclosure of private personal information about former and current Philip Morris employees, officers and directors on the grounds that (i) producing such information would invade the privacy of those former and current Philip Morris employees, officers and directors and may violate federal, state and/or local laws or regulations protecting such information from disclosure, and (ii) such information is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence.

V. Philip Morris objects to these Interrogatories to the extent they seek information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence.

W. Philip Morris objects to these Interrogatories on the grounds that they are not reasonably tailored to lead to the discovery of admissible evidence to the extent they seek information that relates to whether Philip Morris should enter into proposed or actual settlement agreements.

X. Philip Morris objects to Plaintiff's Instruction Number 5 on the grounds that it is vague, ambiguous, overly broad and unduly burdensome.

Philip Morris reserves the right to assert additional objections to these Interrogatories as appropriate and to supplement these objections.

These General Objections are incorporated into each of the following responses to the Interrogatories, and the General Objections shall be deemed continuing as to each Interrogatory, and are not waived, or in any way limited, by the specific responses.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Identify each Person who supplied information You used in answering these interrogatories and, as to each such Person, state the information that Person supplied from personal knowledge.

**RESPONSE:** Philip Morris objects to this Interrogatory on the grounds set forth in its Preliminary Statement and its General Objections, including but not limited to, General Objections E, I, J and L. Philip Morris further objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to and without waiving its specific and General Objections, Philip Morris states that these responses were prepared by its counsel and verified in accordance with the Federal Rules of Civil Procedure.

**INTERROGATORY NO. 2:** For Each affirmative defense or avoidance stated or adopted by reference in Your Answer to the Complaint, state all facts in support of the affirmative defense or avoidance, Identify each Person with personal knowledge of such facts, and Identify Each Document and Communication that demonstrates the existence of such facts.

**RESPONSE:** Philip Morris objects to this Interrogatory on the grounds set forth in its Preliminary Statement and its General Objections, including but not limited to, General Objections B, D, E, I, J, L and X. Philip Morris further objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome and seeks information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence to the extent it purports to include affirmative defenses asserted

**THE EXHIBITS TO THESE RESPONSES CONTAIN CONFIDENTIAL OR  
CONFIDENTIAL - CATEGORY I INFORMATION SUBJECT TO ORDER NOS. 7 AND  
36 IN US V. PM, 99CV2496**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILE**

UNITED STATES OF AMERICA,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 99-CV-2496(GK)
	)	
PHILIP MORRIS, INCORPORATED,	)	
et al.,	)	
	)	
Defendants.	)	

**PHILIP MORRIS INCORPORATED'S RESPONSES TO  
PLAINTIFF'S SPECIFIC INTERROGATORIES TO DEFENDANTS  
PHILIP MORRIS, INC. AND PHILIP MORRIS COMPANIES, INC.**

Defendant Philip Morris Incorporated ("Philip Morris") responds to Plaintiff's Specific Interrogatories to Defendants Philip Morris, Inc. and Philip Morris Companies, Inc. ("Interrogatories") as follows:

**PRELIMINARY STATEMENT**

The most comprehensive and efficient way for Philip Morris to respond to certain of Plaintiff's Interrogatories is to direct Plaintiff to its document website www.pmdocs.com, the contents of which were provided to Plaintiff in the form of data tapes, or to the document depository in Minneapolis, Minnesota, known as the "Minnesota Depository," which was established by Court Order dated June 15, 1995 in The State of Minnesota (Humphrey) v. Philip Morris Incorporated, et al., Case No. C1-94-8565 (Ramsey County, Minnesota) ("the Minnesota Litigation").

Philip Morris' document website was created on February 27, 1998, when Philip Morris voluntarily began placing on that website documents responsive to extensive discovery requests in the Minnesota Litigation.<sup>1</sup> Currently, the vast majority of the documents produced into the Minnesota Depository are available on Philip Morris' document website, including documents selected for copying by Minnesota plaintiffs' counsel. Those "selected" documents are specifically identified on the index available on the document website. Certain oversized documents, videotapes, and other non-standard media are fully indexed on the website, but are not available in image form.

Further, pursuant to paragraph IV of the Master Settlement Agreement ("MSA") in the Attorneys' General cases, entered into on November 23, 1998, Philip Morris undertook to implement certain enhancements to its original document website. These enhancements became available on January 7, 1999. They include the availability of additional documents, improved navigational tools, and an expanded, computer searchable index to documents, with 32 fields of information, as provided for by Exhibit I of the MSA.

In addition, pursuant to paragraph IV of the MSA, documents produced by Philip Morris in certain Attorneys' General cases as of November 23, 1998, when the settlement was entered into, have been placed on Philip Morris' document website.<sup>2</sup> Further, documents produced by Philip Morris on or after October 24, 1998, in any federal or state court civil smoking and health

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<sup>1</sup> The document websites of Philip Morris, and other cigarette companies, are also available through [www.tobaccoarchives.com](http://www.tobaccoarchives.com).

<sup>2</sup> Under the MSA, Philip Morris is not required to put on its document website or otherwise disclose documents that it continues to claim (1) to be privileged, (2) contain a trade secret or confidential or proprietary business information, (3) contain certain personal and third-party information, and (4) to be subject to any continuing protective order, sealing order, or other order or ruling that prevents or limits a litigant from disclosing such documents.

action have been or will be placed on its document website within 45 days after the production of such documents.

As noted above, the documents now available on Philip Morris' document website are also available in the Minnesota Depository. Since 1996, Philip Morris has been producing documents responsive to discovery requests in United States smoking and health litigation into that depository. In response to document requests in the Minnesota Litigation, the scope and meaning of which were the subject of extensive negotiations with the Minnesota Attorney General and clarifications from the Minnesota Court, including a date "cut-off" limiting most responsive documents to those created on or before August 19, 1994, Philip Morris spent more than two years collecting, reviewing, and producing into the Minnesota Depository over 6.8 million pages of documents at a cost to Philip Morris, during the first year alone, of more than \$1 million per week. On average, during the first year of production, approximately 300 attorneys, paralegals, and support staff worked full-time on the production into the Minnesota Depository.

Pursuant to the March 28, 1998 Order, the Minnesota Depository is open to the public at large, subject to certain priority access rules established therein, and documents produced into the Minnesota Depository were made publicly available.<sup>3</sup> Subsequent to that Order, the Minnesota Litigation was settled, and on May 8, 1998, a consent judgment was entered in connection therewith by the Minnesota Court. Pursuant to that consent judgment, the public also

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<sup>3</sup> The public availability provisions of the March 28, 1998 Order excluded trade secret documents designated as "Confidential - Category I" under the Minnesota Protective Order and documents containing confidential personal and third-party information. During the Minnesota Litigation, Philip Morris also produced some documents and information to plaintiffs' counsel outside the Minnesota Depository. Most of those documents and information have been produced into the Minnesota Depository. However, of the documents produced directly to plaintiffs' counsel outside the Depository, any documents, which are designated "Confidential - Category II" under the Minnesota Protective Order, and which contain trade secret formula, ingredient or specification information, will not be produced into the Depository.

has access in the Minnesota Depository to those documents produced by defendants in the Minnesota Litigation which were previously designated as "Confidential - Category I" under the Minnesota Protective Order. Additionally, pursuant to the May 8, 1998 consent judgment entered in the Minnesota Litigation, Philip Morris has produced and is continuing to produce into the Minnesota Depository all non-confidential, non-privileged documents produced by Philip Morris in other United States smoking and health litigation, but not previously produced in Minnesota, within 30 days of their production in such other litigation.

At the Depository, plaintiffs can access the "4B indices"<sup>4</sup> covering documents produced into the Minnesota Depository. Through the use of the 4B indices, plaintiffs have a searchable index to all of the documents produced into the Minnesota Depository to date. Plaintiffs can also review a log of documents that Philip Morris has withheld from production in litigation and from the Minnesota Depository and its document website on the grounds that they are protected from discovery by the attorney-client privilege, the work product doctrine, the joint defense privilege, the common interest privilege or any other applicable privilege or exemption.

Philip Morris makes no claim of confidentiality for information, documents, or materials voluntarily made available by Philip Morris to the public in the Minnesota Depository or to documents placed on its document website by Philip Morris. Philip Morris does not waive any claims of privilege or work product for documents for which claims of privilege or work product continue to be asserted by Philip Morris.

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<sup>4</sup> The 4B indices identify, for each document, the box number, Bates (document) number, title, author(s), recipient(s), person(s) copied, document type, date shipped to the Minnesota Depository, and, in many cases, at least one Document Request to which the document is responsive. In some instances where a document is responsive to multiple requests, not all requests are identified.

Given that the document website and the Minnesota Depository are accessible to Plaintiff, documents containing information requested in certain of these Interrogatories are as accessible to Plaintiff as they are to Philip Morris.

#### **GENERAL OBJECTIONS**

A. Philip Morris objects to the "Definitions" and "Instructions" to these Interrogatories to the extent they attempt to impose obligations on Philip Morris other than those imposed or authorized by the Federal Rules of Civil Procedure and/or any applicable order of this Court.

B. Philip Morris objects to the term "Document" as defined in Paragraph 5 of the "Definitions" on the grounds that it is overly broad and unduly burdensome to the extent it exceeds the requirements of the Federal Rules of Civil Procedure.

C. Philip Morris objects to the terms "Money" and "Payment" as defined in Paragraph 7 of the "Definitions" on the grounds that they are overly broad and unduly burdensome.

D. Philip Morris objects to the terms "You," "Your" and "Your Company" as defined in Paragraph 4 of the "Definitions" on the grounds that they are overly broad and unduly burdensome. Responses to these Interrogatories are by and for defendant Philip Morris Incorporated only.

E. Philip Morris objects to Paragraph 4 of the "Instructions" on the grounds that it is overly broad and unduly burdensome.

F. Philip Morris objects to these Interrogatories to the extent they seek disclosure of information protected from discovery by the attorney-client privilege, the work product doctrine, the joint defense privilege, the common interest privilege, or any other applicable privilege and exemption. Inadvertent disclosure of any privileged or otherwise protected documents or



information shall not be a waiver of any privilege, work product protection, exemption, or immunity.

G. Philip Morris objects to these Interrogatories to the extent they require the disclosure of proprietary, trade secret, or any commercially protected information unless such disclosure is made in accordance with the provisions of Order #7, Protective Order Governing Confidential Information, entered by the Court on March 3, 2000, and of Order #36, Addendum to Protective Order for Highly Sensitive Information (November 15, 2000). No claim of confidentiality shall apply to information, documents or materials voluntarily made available by Philip Morris to the public in the Minnesota Depository or to documents placed by Philip Morris on its document website [www.pmdocs.com](http://www.pmdocs.com). Furthermore, Philip Morris objects to producing, under any circumstances, extraordinarily sensitive and guarded trade secret and proprietary information (such as specifications and formulas for commercial cigarettes and information regarding new product development), for which no relevance has been shown.

— H. Philip Morris objects to these Interrogatories, including Paragraph 1 of the "Instructions," to the extent they purport to require searches of files and the production of information in the possession, custody, or control of third parties. Philip Morris also objects to these Interrogatories to the extent they seek information from agents, other than current employees, parents, subsidiaries, affiliates or third parties, or those parent, sister, or subsidiary companies not in the business of manufacturing, marketing, promoting or selling cigarettes within the United States. Such interrogatories are overly broad and unduly burdensome, and seek information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence. The responses to these Interrogatories are by and for defendant Philip Morris Incorporated only.

I. Philip Morris objects to these Interrogatories on the grounds that they are overly broad and unduly burdensome to the extent they require Philip Morris to provide information that is not within its possession or that is in the possession of Plaintiff, Plaintiff's counsel, another defendant or any person or entity not a party to this action.

J. Philip Morris objects to these Interrogatories to the extent they seek the production of information that is publicly available on the ground that the burden of obtaining that information is substantially the same for Plaintiff as it is for Philip Morris.

K. Philip Morris objects to these Interrogatories on the grounds that they are overly broad and unduly burdensome to the extent they are unlimited as to time.

L. Philip Morris objects to these Interrogatories on the grounds that they are overly broad and unduly burdensome to the extent they seek information concerning the manufacture, advertising, marketing or sale of cigarettes not manufactured, advertised, marketed or sold in the United States.

M. Philip Morris objects to these Interrogatories to the extent they seek information regarding claims that are preempted by the Federal Cigarette Labeling and Advertising Act, codified as amended at 15 U.S.C. §§ 1331-41. See Lorillard Tobacco Co. v. Reilly, 533 U.S. 525, 121 S. Ct. 2404 (2001); Cipollone v. Liggett Group, Inc., 505 U.S. 504, 112 S. Ct. 2608 (1992).

N. Philip Morris objects to these Interrogatories to the extent they seek the disclosure of private personal information about former and current Philip Morris employees, officers and directors on the grounds that (i) producing such information would invade the privacy of those former and current Philip Morris employees, officers and directors and may violate federal, state and/or local laws or regulations protecting such information from disclosure, and (ii) such

information is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence.

O. Philip Morris objects to these Interrogatories to the extent they seek information that is neither relevant to the claims or defenses of any party to this action nor reasonably calculated to lead to the discovery of admissible evidence.

P. Philip Morris objects to Paragraph Nos. 5 and 8 of the "Instructions" on the grounds that they are vague, ambiguous, overly broad and unduly burdensome.

Q. Philip Morris objects to the term "versions" as used in Paragraph 10 of the "Definitions" on the grounds that it is vague and ambiguous. For purposes of responding to these Interrogatories, Philip Morris interprets this term to refer to "packings."

R. Philip Morris objects to the phrase "company research" as defined in Paragraph No. 11 of the "Definitions" on the grounds that it is vague, ambiguous, overly broad and unduly burdensome. For purposes of responding to these Interrogatories, Philip Morris interprets this phrase to refer to research conducted or funded by Philip Morris Incorporated.

Philip Morris reserves the right to assert additional objections to these Interrogatories as appropriate and to supplement these objections and responses.

These General Objections are incorporated into each of the following responses to the Interrogatories, and the General Objections shall be deemed continuing as to each Interrogatory, and are not waived, or in any way limited, by the specific responses.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Identify all of the steps you have taken to reduce the addictiveness of your products.

**RESPONSE:** Philip Morris objects to this Interrogatory on the grounds set forth in its Preliminary Statement and its General Objections, including but not limited to, General

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PHILIP MORRIS, INCORPORATED, *et al.*,

Defendants.

Civil Action No. 99-CV-2496 (GK)

**PHILIP MORRIS INCORPORATED'S RESPONSES TO  
PLAINTIFF'S FIRST REQUESTS FOR ADMISSION TO ALL DEFENDANTS**

Defendant Philip Morris Incorporated ("Philip Morris") hereby responds to Plaintiff's First Requests for Admission to all Defendants ("Requests") as follows:

**GENERAL OBJECTIONS**

A. Philip Morris objects to the "Definitions" and "Instructions" to these Requests to the extent they attempt to impose obligations on Philip Morris other than those imposed or authorized by the Federal Rules of Civil Procedure and/or any applicable order of this Court.

B. Philip Morris objects to the phrase "environmental tobacco smoke" as defined in Paragraph 7 of the "Definitions" on the grounds that it is vague, ambiguous, and overly broad. Philip Morris further states that for purposes of responding to these Requests, it defines "environmental tobacco smoke" to mean a highly diluted, aged, dynamic, complex, and ever-changing mixture of sidestream smoke and exhaled mainstream smoke.

C. Philip Morris objects to the phrases "safer cigarette," "less hazardous cigarette," and "alternative cigarette" as used in these Requests, and as defined in Paragraph 8 of the "Definitions," on the grounds that they are vague and ambiguous and fail to describe the facts

sought to be admitted with reasonable particularity. There is neither an accepted definition of "safer cigarette," "less hazardous cigarette," and/or "alternative cigarette" nor any agreement as to whether a "safer cigarette," "less hazardous cigarette," and/or "alternative cigarette" is technologically possible or commercially feasible.

D. Philip Morris objects to the terms "you" and "your" and to the phrase "your organization" as defined in Paragraph 14 of the "Definitions" on the grounds that they are vague, ambiguous, overly broad, and unduly burdensome. Responses to these Requests are by and for defendant Philip Morris Incorporated only.

E. Philip Morris objects to these Requests to the extent they seek admissions regarding information and/or documents containing information protected from discovery by the attorney-client privilege, the work product doctrine, the joint defense privilege, the common interest privilege, or any other applicable privilege and exemption. Inadvertent disclosure of any privileged or otherwise protected documents or information shall not be a waiver of any claim of privilege, work product protection, exemption, or immunity.

F. Philip Morris objects to these Requests as overly broad and unduly burdensome to the extent they seek to require Philip Morris to make admissions regarding information that is not within its possession, that is in the possession of Plaintiff, another defendant, or any person or entity not a party to this pending action.

G. Philip Morris objects to Instruction No. 1 to these Requests on the grounds that it is vague and ambiguous.

H. Philip Morris objects to the terms "addiction" and "addictive" as defined in Paragraph 2 of the "Definitions" on the grounds that they are vague and ambiguous.

I. Philip Morris objects to the phrase "persons under the age of 21" as defined in Paragraph 12 of the "Definitions" on the grounds that it is vague and ambiguous.

J. Philip Morris objects to Request Nos. 275 through 388 on the ground that Plaintiff failed to attach a copy of the document that is the subject of each Request, which inhibits Philip Morris' ability to admit or deny these Requests. Therefore, Philip Morris' responses to these Requests are based solely on the documents produced by Plaintiff on December 10, 2001 in conjunction with Plaintiff's Supplemental Responses to Joint Defendants' First Set of Continuing Interrogatory Nos. 29-31 and 33-35 to Plaintiff.

Philip Morris reserves the right to assert additional objections to these Requests as appropriate and to supplement these objections and responses.

These General Objections are incorporated into each of the following responses to the Requests, and the General Objections shall be deemed continuing as to each request and are not waived, or in any way limited, by the following responses.

#### **REQUESTS FOR ADMISSION**

**REQUEST NO. 1:** Admit that since at least 1954 there has been a medical consensus that smoking is a risk factor for lung cancer.

**RESPONSE:** Subject to and without waiving its General Objections, Philip Morris admits that scientific literature reported a statistical association between lung cancer and cigarette smoking by the early 1950s. Epidemiological studies published in 1950 (Wynder and Graham) and in 1954 (Doll and Hill) reported a relationship between tobacco use and disease. These studies had led some scientists at that time to hypothesize that cigarette smoking might play a role in certain types of lung cancer. Except as expressly admitted, Philip Morris denies this Request.

**REQUEST NO. 2:** Admit that epidemiology is a valid scientific method to determine whether smoking causes lung cancer and certain other cancers or diseases in some members of a population.